

# City of Portland

# **Bureau of Development Services**

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300

> TDD: 503-823-6868 FAX: 503-823-5630

www.portlandonline.com/bds

Date: September 8, 2008
To: Interested Person

**From:** Nan Stark, Land Use Services

503-823-7828 / nstark@ci.portland.or.us

# NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-151745 AD

# **GENERAL INFORMATION**

**Applicant/Owner:** Deborah R Hyde

7517 SE Long St Portland, OR 97206

Site Address: 7517 SE LONG ST

**Legal Description:** INC PT VAC ST LOT 4 BLOCK 5, LOOMIS PK

**Tax Account No.:** R509000390 **State ID No.:** R509000390 1S2E17AB 01800

Quarter Section: 3538

**Neighborhood:** Foster-Powell, contact Ken Pliska at 503-775-9101.

**Business District:** Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832. **District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

**Zoning:** R5a: High-density single-dwelling with 'a' Alternative Design density

overlay zone

**Case Type:** AD, Adjustment

**Procedure:** Type II, an administrative decision with appeal to the Adjustment

Committee.

#### Proposal:

The owner wishes to demolish a small addition on the east side of the house that enclosed the original side porch, and to rebuild it in the same location, adding 1 foot to the length. The existing structure is 3 feet from the side property line. The required side setback in this zone is 5 feet. Consequently, the owner requests an Adjustment to zoning code standard 33.110.220, Setbacks, to maintain the 3-foot side setback for the addition, which is 16'5" long.

#### Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments.

#### **ANALYSIS**

**Site and Vicinity:** The site is a triangular lot that is just under 6,000 square-feet in area, with frontage on SE Long Street and Firenze Lane. The one-story house is oriented to Long Street, with its rear yard along Firenze Lane.

Holgate Blvd is one block south of the site. The block on which the site is located is an unusual one, with two diagonal streets, Firenze Lane and Lounsberry Lane, bisecting it and giving two street frontages to most of the lots. Like the surrounding area, this block is developed primarily with single-story early- and mid-century houses. Larger front setbacks and old, tall fir trees give the area its particular character.

**Zoning:** The site is zoned R5a. The R5 zone is the typical closer-in single-dwelling zone and corresponds to the High Density Single-dwelling designation of the Comprehensive Plan, with average lot size of 5,000 square-feet for new lots. The 'a' represents the Alternative Design Density overlay zone, which allows options for higher density in specific situations. This proposal is not utilizing the options of the overlay zone.

Land Use History: City records indicate there are no prior land use reviews for this site.

**Summary of Applicant's Statement:** The applicant wishes to rebuild the addition in order to improve the function of the interior space.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **August 12, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau

- Fire Bureau
- Bureau of Parks-Forestry Division
- Site Development Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on August 12, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

#### ZONING CODE APPROVAL CRITERIA

#### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

#### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below, have been met.

**A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The *purpose* of the setback standard is to:

- Maintain light, air, separation for fire protection and access for fire fighting;
- Reflect the general building scale and placement of houses in the city's neighborhoods;
- Promote a reasonable physical relationship between residences, and options for privacy for neighboring properties;
- Promote open, visually pleasing front yards with larger front setbacks than side and rear setbacks; and
- Provide adequate flexibility to site a building so that it is compatible with the neighborhood, fits the topography of the site, and allows for outdoor area and architectural diversity.

The applicant wishes to rebuild the addition in the same place that it has existed for many years. The roof will be slightly raised to match the ceiling of the rest of the house, and one foot will be added to align the addition with the rear wall of the house. The 3-foot setback will continue the existing relationship between the subject house and the closest one to it to the east. While the neighboring house is also close to the property line and likely less than 5 feet from it as well, the layout is typical of houses in the immediate area that are often close to the side property lines. The small scale of the addition ensures that if necessary, access can be gained from either the front or rear as well as the narrower side yard.

The placement of the addition to the east side not only maintains the existing situation, but also preserves the character of the house as seen from the street. The west side yard is triangular, adjacent to both of the streets along this property, and thus is the more visible side. From that perspective, the older quality of the house is prominent and well preserved. By keeping the addition in the same location, the front and larger side setback is maintained, and the relationship of the structure to the abutting property is unchanged. For these reasons, the proposal supports the purpose of the setback standard, thus meeting this criterion.

**B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The small scale of the addition is to the east side of the house, in the same location as the existing original addition. With this project to rebuild the addition, the wall will be raised to meet the exterior and interior walls, adding to its functional as well as aesthetic value. By adding one foot to the rear, the addition will line up with the existing rear wall of the house, further improving the internal layout as well as creating a more logical situation on the outside. The continuation of the same setback maintains the accustomed separation between the subject house and abutting one, thus not posing a change to the existing situation. With the rebuild, the exterior will be improved and will create a more consistent appearance with the rest of the house as seen from the street. Therefore, this criterion is met.

**C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. The addition continues the existing setback and extends the wall by one foot in

length and height, which will result in an improved layout both internally and externally without creating impacts. This criterion is met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The site is not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, this criterion is not applicable.

# **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

# CONCLUSIONS

The proposed rebuild of the existing small-scale addition will improve the overall quality of the house, as seen from the street, because it will align the walls and roof with that of the main portion of the house. By locating it along the same setback with one additional foot in length and a slight increase in height, there is no change to the relationship between the subject house and abutting one to the east. Likewise, there is no change to the more prominent sides of the house along the front and side, which are visible due to the corner location of the property. The analysis shows that the proposal satisfies all of the relevant approval criteria.

# ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code standard 33.110.220, Setbacks, to reduce the east side setback along the rebuilt addition from the required 5 feet to 3 feet, per the approved site plan and south elevation drawing, Exhibits C-1 and C-2, signed and dated September 4, 2008.

Decision rendered by:

on September 4, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: September 8, 2008

Staff Planner: Nan Stark

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on August 1, 2008, and was determined to be complete on August 8, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on August 1, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be

waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

### Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed by 4:30 PM on September 22, 2008 at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. An appeal fee of \$250 will be charged. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <a href="www.portlandonline.com">www.portlandonline.com</a>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

# Recording the final decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after **September 23, 2008 (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-7967.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review:
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

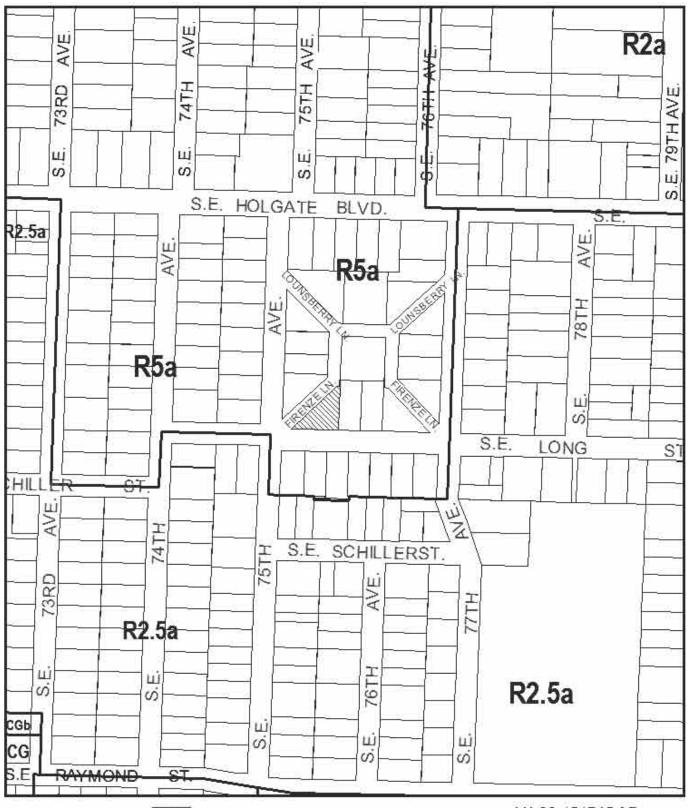
#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation drawing, east, south and north (attached)
  - 3. Photos of site
  - 4. Photos of examples of reduced side setbacks in vicinity
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau

- 5. Site Development Review Section of BDS
- 6. Bureau of Parks, Forestry Division
- F. Correspondence: none
- G. Other:
  - 1. Original LU Application
  - 2. Email correspondence between N. Stark and D. Hyde, Aug 7, 2008

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



File No. LU 08-151745 AD

1/4 Section 3538

Scale 1 inch = 200 feet

State\_Id 1S2E17AB 1800

Exhibit B (Aug 04,2008)



